

**Industrial Commission's Advisory Committee
On Workers' Compensation
Minutes**

August 13, 2008

Members Present:

Max Sheils	Rian Van Leuven
James Arnold	John Greenfield
Glenna Christensen	David Gribskov
Troy Watkins	Senator John Andreason
David Whaley	Bob Shosted
Rod Fuger	Linda Sams

Members Absent:

Steve Haase
Judy Wise
Steve Millard

Minutes:

The Minutes of May 7, 2008 were reviewed. Upon motion by Dave Whaley, seconded by David Gribskov, the Minutes were approved as written.

Subcommittee Reports:

Uninsured Employers' Fund (*Chair John Greenfield, Dave Whaley, James Arnold, Steve Millard, Ex-Officios: Jack Barrett, Blair Jaynes, Christi Simon, Alan Gardner, Jon Bauman, and Lynn Luker*) Jack Barrett reported that the subcommittee members met recently to discuss the issue of funding for the UEF. The proposal will not be ready for the 2009 legislature. John Greenfield reported that he will be traveling to New Mexico to discuss with their Workers' Compensation Division and former AFL-CIO President its UEF funding and the details involved in assessments. New Mexico assesses employers and employees a small amount equally to fund their UEF. An updated report will take place at the next Advisory Meeting.

Physician Deposition/Testimony Fees (*Chairman James Arnold, Glenna Christensen, Dr. Troy Watkins, Linda J. Sams, David Gribskov, Ex-Officios: Patti Jarossy and Ron Hodge*) James Arnold reported that the subcommittee has not met, but that he has added treating physicians have been added to the list of deposition/testimony fees. Dr. Troy Watkins stated that doctors do not like doing depositions or testifying and that is possibly why they are charging such high fees, and is unsure what the Commission can do. Mr. Arnold will schedule a meeting and report on possible solutions at the next Advisory Committee meeting. Mr. Arnold also reported that treating physicians are also agreeing to treat workers' comp patients, but when it is time to render a decision on causation, impairment ratings, work restrictions and such, the provider refuses to provide an opinion. Mr. Arnold is working on ways to handle this as well.

ISIF Funding and Assessments (*Acting Chair David Gribskov, Dave Whaley, Glenna Christensen, James Alcorn, John Greenfield, Judy Wise, Kent Day, Lynn Luker, Lyn*

Darrington, Maggie Karpuk, Woody Richards, Bob Shosted, Ted Roper, and Michael Kane) Steve Haase was unable to continue as chairman of this subcommittee and will not be seeking another term on the Advisory Committee, and asked David Gribskov to act as temporary chair until the Advisory Committee appoints a new chair of the subcommittee. Acting Chair David Gribskov reported that the subcommittee met August 7, 2008 and Jack Barrett gave a very good presentation to the subcommittee on the history of the Industrial Special Indemnity Fund. Ted Roper with the ISIF and Maggie Karpuk with NCCI experience ratings and the impact on the ISIF assessments on insurance rates which took up the majority of the meeting. Additional research is being done and will be reported on at the next meeting. The subcommittee is moving forward, but this process will take some time and a review of a substantial amount of information. Bob Shosted's term expires this month and has chosen not to pursue another term, but noted his desire to continue as an ex-officio member of the ISIF subcommittee. Glenna Christensen volunteered to Chair the ISIF subcommittee and will schedule a meeting in the near future.

Updates:

Proposed Legislation and Rules for 2009:

IDAPA 17.02.03, Rules Governing Self-Insured Employers: Commission Chairman James Kile reported that no action will be taken this legislative session on changes to this rule. Meetings will be scheduled with self-insured employer representatives to discuss proposed changes with the hope of having a draft by November.

Idaho Code §72-713, Notice of Hearings – Service: Chairman Kile reported that last year the Governor's office requested that the proposed changes to §72-713 be withdrawn, and this year the Governor's office has denied the proposed statute change. This proposed change would save the Commission several thousand dollars annually and since certified mail is often not picked up, more claimants would receive the notices. Commissioner Kile stated that the Judicial Districts and the Supreme Court use regular mail for hearing notices and that he has been informed that the US Government often sends secretive documents by regular mail. Chairman Kile requested assistance on presenting this legislation. Senator Andreason stated that he would be glad to work with the Commission and help with submitting the statute change. Dr. Watkins suggested that the statute also include the ability to send notices by email.

IDAPA 17.02.08, Miscellaneous Provisions: Patti Jarossy, Medical Fee Schedule Analyst, reported that the Commission is continuing to work on the hospital fee schedule, and meetings have been held with interested parties on hospital and Ambulatory Surgery Center reimbursements. The proposed rule changes have to be submitted to the Department of Administrative Rules by August 20, 2008 and will be published October 1, 2008. The Commission will post the rule on its website prior to the publication date. Ms. Jarossy noted that public hearings have been scheduled for Coeur d'Alene on October 15, Boise on October 28, and Idaho Falls on October 29. Ms. Jarossy stated that

Eric Anderson with Ingenix will be attending the Boise hearing to answer any questions or concerns.

Written and verbal comments will be received until October 31, 2008. The Commissioners and Ms. Jarossy will review all comments and testimony received, and make any changes necessary before submitting the pending rule by November 14, 2008.

Idaho Code §72-517, Cooperation with Other Agencies: Deputy Attorney General Blair Jaynes reported that the Commission is proposing changes to Idaho Code §72-517, to resolve issues the Commission has had in the ability to share information with other agencies. The Commission currently cannot notify other agencies that we've discovered non-compliance. The Commission is allowed to receive information from the Department of Labor under an ongoing agreement, however, we do not have the same liberties with most other agencies. Mr. Jaynes pointed out that the bullet points contained in the proposed changes are exactly the same as the Tax Commission's statute.

Idaho Code §72-1025, Fines – Reimbursements – Priority – Disposition: Bureau Chief of the Crime Victims' Program George Gutierrez reported on the proposed changes related to fines in connection with convictions of crimes in Idaho. As applications for assistance for victims of crimes increases, funding has not kept pace. An increase in fines last occurred in 1992 and is the Crime Victim Program's main source of funding. Mr. Gutierrez reported that in FY2008 there were 2,400 applications filed and processed with 3.1 million paid out to victims of crime. Medical inflation in 2007 increased 45% and in 2008 has increased 26% over and above the prior year. Applications increase as private health insurance becomes cost prohibitive to more Idahoans.

Dr. Troy Watkins volunteered to assist Mr. Gutierrez in reviewing medical costs to identify where increases are incurring in order to help reduce costs. Rian Van Leuven wanted to know what funding mechanisms sustain the Crime Victims' Program. Mr. Gutierrez replied that the primary source of funding is from fines, then a federal grant, which reimburses 60% of what the state spent two years prior, money from offenders responsible for victims, and donations from correctional institution inmates who voluntarily donate 5% of what they earn in prison jobs.

Mr. Gutierrez reported that due to a funding shortfall, the program has had to reduce payments by 25% to medical providers during the last quarter of FY2008 which will extend through FY2009. The victims will likely have to make up the difference for those providers who choose to balance bill.

Peace Officer and Detention Officer Temporary Disability Fund

Commission Director Mindy Montgomery reported that the fund currently has \$124,276. The rules and application form are posted on our website, and the Commission has received a few calls wanting information, but no claims have been received as yet. The Commission now has in place a half-time staff person to handle administration of this program.

Reciprocity Agreements

Bureau Chief of Employer Compliance Christi Simon reported that the Commission has been working with other states on reciprocity agreements to cover employers who have employees working out of state. Montana and Nevada made changes to their statutes mandating that out of state construction workers cannot operate in their state without being insured in their state. The Commission has been unsuccessful in trying to negotiate with these states, since their statutes do not allow reciprocity.

Ms. Simon reported that Washington has many concerns regarding out of state employees and has recently passed legislation restricting temporary and incidental employment to 30 consecutive or non-consecutive or partial days annually. After that an employer would be required to purchase workers' compensation insurance in Washington for their employees. Commissioner Maynard reported that Washington allows its employers to either purchase Washington workers' compensation insurance or the other state's insurance, but does not require them to purchase both. Under Washington's current restrictive language, Idaho would probably not be able to enter into a reciprocity agreement without changing Idaho's statute. Washington's new law will impact many Idaho employers other than construction.

Ms. Simon reported that it is very confusing for employers who work in various states to know what they have to do to be compliant in that state, whereas if there were no reciprocity agreements, then everyone would have to purchase workers' compensation insurance in whatever state they are working in. An update will be given at the next Advisory Committee meeting.

Other Issues:

Utah Legislation – Illegal Workers

Chairman Max Sheils reported that he was contacted by Jim McCaffrey from WorkComp Central, a publication on workers' compensation issues across the country. Mr. McCaffrey questioned Mr. Sheils on his thoughts on Utah's new law disallowing workers' compensation benefits to illegal immigrants and stated that Idaho laws were the same. Mr. Sheils explained to Mr. McCaffrey that Idaho Work Comp Law does not contain language along those lines, however the Department of Labor laws do. The information published was erroneous and Mr. Sheils wanted to go on record as to what was really stated. Several others at the meeting stated they were contacted by Mr. McCaffrey on this subject as well.

Industrial Commission Report:

Directory Mindy Montgomery reported that the Commission's move to our new location went very well and our IT department did an amazing job getting all the networks up and running quickly. Ms. Montgomery stated that since we are no longer a

part of the Capitol Mall Security, we put in an extensive security system that we are still working on.

Ms. Montgomery noted that the Commission will hold an open house on September 3, 2008, from 2:00 p.m. until 4:30 p.m. It was also reported that the Annual Workers' Compensation Seminar was being held November 6, 2008 at the Boise Centre on the Grove, and that registration forms are available on our website.

Nominations and Election

The following positions for three year terms were open for nomination:

- 1 Representative of Workers – Rian Van Leuven agreed to serve another term.
- 1 Representative of Employers – Roy Galbreath with J.R. Simplot
- 1 Representative of the Insurance Industry – Mike Haxby with Intermountain Claims.
- 1 Attorney Primarily Representing Employers – Glenna Christensen agreed to serve another term
- 1 Attorney Primarily Representing Claimants – James Arnold agreed to serve another term.

Dave Whaley asked for consensus of the members to recommend to the Commission all the nominees to serve on the Advisory Committee. The Committee reached consensus.

John Greenfield nominated James Arnold to serve as Chairman of the Advisory Committee for the coming year. The Committee reached consensus.

Preparation for Future Meetings:

Topics for Discussion at the Next Meeting

Uninsured Employers' Fund – John Greenfield/Jack Barrett
Physician Deposition/Testimony Fees – James Arnold
ISIF Funding and Assessments – Glenna Christensen
Review of Subcommittees

Date of Next Meeting was set for November 12, 2008.